

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

REMARKS/ARGUMENTS

The Applicant has carefully considered the Examiners' grounds for rejection of the pending claims, and respectfully traverses the grounds for rejection.

General Remarks

It is very apparent from the prosecution of this patent application that the Examiner has diligently searched the art several times and over the course of several years. Yet, the lack of any prior art references which comport with aspects of Applicant's invention can only attest to the novelty and nonobviousness of the present invention. Clearly, when no relevant teachings have been found to support a *prima facie* case of obviousness, the claims in the instant application should have already been allowed, and the unsupportable rejections of this Office Action should not have been made in the first place, as they place a burden on all parties and delay issuance unnecessarily. Following is a general discussion of the shortcomings of the grounds for rejection in this fifth Office Action, prior to proceeding to address the specific deficiencies of the rejections.

In the present Office Action, as with the previous FOUR office actions (which were not necessitated by Applicant amendments), the relationship between the cited reference(s) and Applicant's invention is again not one of anticipation or even obviousness. Applicant respectfully submits that the alleged prior art cited in support of the present rejection (namely, Mogul '761) does not teach or suggest any of the claimed aspects of Applicant's invention. In fact, the cited reference has little bearing on Applicant's invention, except for describing what Applicant would consider conventional aspects of current web based, Internet, technology.

This present Office Action is structured as a copy of the prior Office Action, except that now the Examiner has substituted Mogul '761 for the Shojii reference cited in the prior Office Action which the Applicant successfully traversed. Yet, Mogul '761 is no more relevant than was Shojii; both references describe conventional technology

Appl. No.: 09/262,172
Amdt. Dated: 04/28/2004
Off. Act. Dated: 12/24/2003

which has little relationship with the invention recited in the Applicant's pending claims. The cited references have simply been misapplied and/or there has been a serious lack of understanding of the invention and the claim elements being "equated" to those references in support of the rejection.

It should be recognized that the Mogul '761 reference, which was cited against Applicant's claims, teaches a server system which adjusts the complexity of the HTML pages in response to a bandwidth measurement process. The method that Mogul teaches for adjusting the complexity of the HTML appears identical, or at least strikingly similar, to that utilized for adjusting the complexity (including size and color depth) of HTML pages in response to device characteristics, such as sending lowest complexity pages to web enabled appliances and cell phone, medium level complexity to PDAs and the like, and conventional complexity HTML pages to fully featured laptop and desktop computers. ***The system of Mogul '761 describes web page server functionality and does not describe the desktop based functionality of Applicant's invention.***

The novelty of Mogul '761 lies in changing presentation feature depth in response to measured network traffic. The HTML pages are conventional (***Mogul '761 is not configured for "storing multimedia content records" as in the Applicant's invention***) and the serving of the web pages does not comport to receiver side content accesses of multimedia content records (***Mogul '761 has no discussion of a software engine means for seamlessly accessing a "multimedia content record" in a database as in the Applicant's invention***).

Consequently, the technology taught by Mogul '761 is unrelated to the technology being claimed in the instant application. The majority of aspects cited from Mogul '761 are aspects contained within any conventional web based system. By way of example, column 1, lines 32-38 are referenced by the Examiner, specifically:

"The most common way to access a Web page is by using a Web browser, for example, the Netscape Navigator.TM., the Microsoft Internet

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

Explorer.TM., or through some Internet service such as AOL. The Web pages are located by specifying their addresses. A Web page address is indicated by a Universal Resource Locator (URL). The URL can either be specified directly, or by "clicking" on a "hot-link" in a previously retrieved page."

The above recites conventional Internet aspects, and only serves to indicate that the instant application is within the field of Internet related art. The cited passage otherwise has no bearing to the invention recited in the Applicant's claims.

As another example, the Examiner cites column 4, lines 40-45 of Mogul in support of the rejection as follows:

If the Web page includes graphic images, then the adjusting can include reducing the size of the graphic image, reducing the resolution of the graphic image, reducing the number of colors of the graphic image, and reducing the spatial frequencies of the graphic image.

The above cite again describes the present abilities to change the size of a given piece of content. It does not address the elements of Applicant's Claim 1 for example.

In attempting to support a rejection, the Examiner has (once again) ignored the elements of the Applicant's claims which are discussed at length in the instant application and which have been discussed at length in the Applicant's responses to the prior Office Actions.

It is clear that the pending claims are in a condition for allowance, but none have been allowed despite a clear lack of any references that anticipate the claims. Furthermore, none of the references cited to date, either singly or in combination, suggest or provide motivation or incentive for the invention recited in the pending claims. Therefore, the Applicant is becoming quite dismayed by this continued series of Office Actions which do not advance the case at all, but which continue to cite patents that provide no teaching, suggestion or motivation or incentive for the aspects of Applicant's invention to which Applicant's claims are directed.

Specific Remarks

In the following remarks the Applicant will traverse the specific rejections for the

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

reason that the new grounds for rejection lack merit because the cited reference does not teach, suggest or provide motivation or incentive for all of the elements of any of the pending claims.

1. Rejection of Claims 1-19 and 25-44 under 35 U.S.C. §103(a).

Claims 1-19 and 25-44 were rejected under 35 U.S.C. §103 as being unpatentable over (U.S. Patent No. 6,243,761) to Mogul et al.

Claim 1. In support of the rejection the Examiner erroneously considers Mogul '761 to describe the elements of Applicant's Claim 1; however, there is no basis for making such a comparison.

The Examiner refers to Fig. 1, item 111 of Mogul '761 which is marked as "Client and Page Database" and column 5 lines 5 - 17 indicate only that "*as server can maintain a database (DB) 111 that stores web pages. The web pages are essentially content rich data files that encode multimedia information in various formats.*" The specification goes on to specify what those formats can be: "plain text, colored graphic images, moving video, and audio. Typically, the web pages 112 are designated using the HyperText Mark-up Language (HTML). With HTML, any number of multimedia data files can be specified as inserts for a particular web page. This citation is completely moot with regard to the database aspects of Claim 1.

Storing web pages in a database is typical of web based operations, and is not being claimed in Claim 1, or the other claims by the Applicant. Claim 1 describes the use of "multimedia context records", which utilize custom tags for controlling access to local and remote resources along with other context records within the database:

One fundamental aspect of Applicant's invention is the organization of multimedia content records in a database, for which there are no teachings at all within the Mogul '761 reference. The Mogul reference: (i) does not teach, suggest or provide motivation or incentive for the subject matter of the rejected claims, and (ii) operates under different principles of operation and toward a different objective. The rejection follows a similar pattern as that successfully traversed by the Applicant in response to

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

the FOUR previous Office Actions which go back to May of 2001. And once again, a rejection has been set forth even though there is no support for the rejection in the cited reference.

A "database means" is described for "storing multimedia content records" having "associated references to media files for a multimedia presentation". These content records are processed by the "software engine means" described in the second claim clause. The database in Applicant's invention contains "multimedia content records", which are processed by the "software engine means, executed on a computer for accessing a content record in said database means and seamlessly locating and displaying associated media elements referred to in that content record". There is no database being processed by a software engine means within Mogul '761, wherein there is no support for the obviousness rejection against Claim 1.

The Mogul '761 reference describes a server which stores HTML pages being served over the Internet to clients, wherein the detail of the HTML content sent is determined by registered bandwidth. Applicant's invention does not describe a server application, but is a desktop based system which coordinates a complex collection of content sources into a seamless presentation. Furthermore, Applicant's invention generally operates to resize the display to match the size of the content, instead of the other way around as recited by the references. Mogul '761 does not describe an apparatus for accessing and displaying multimedia content, but describes a server which selects alternative HTML content based on available bandwidth. The use of custom tags, such as embedded in the HTML, for controlling the display of content is nowhere mentioned in the Mogul '761 reference.

Therefore, Mogul '761, which is the primary reference cited by the Examiner, does not teach those aspects of the Applicant's claims which the Examiner asserted the reference teaches. As such, the Applicant respectfully submits that Mogul '761 cannot be used in support of an obviousness rejection. Consequently, the rejection of Claim 1 as well as the claims that depend therefrom, should be immediately withdrawn and the

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

patent allowed to issue.

It is the burden of the PTO to establish a prima facie case of obviousness when rejecting claims under 35 U.S.C. §103. However, none of the elements of Claim 1 can be found in the cited reference, there is nothing in the cited reference from which one of ordinary skill in the art would find any suggestion, motivation or incentive so as to render Claim 1 obvious, and the invention of Claim 1 as a whole would not have been obvious to one of ordinary skill according to the requirements of 35 U.S.C. §103 for any other reason. Therefore, the rejection should be withdrawn.

Nor does the Examiner demonstrate the existence of any logical incentive, suggestion or motivation to alter the teachings of Mogul '761, a reference that is sufficient in itself to accomplish its objectives, to the use of context records and a software engine means as recited in Claim 1 of the Applicant.

The most obvious of shortcomings of the grounds for rejection have been described; however, there exist a number of additional shortcomings which have not been addressed at any length, including: the Applicant's invention uses a new principle of operation and solves a different problem than the cited reference, and the elements in the cited reference are not equivalent to those in the Applicant's claims.

The Applicant therefore respectfully requests that the rejection of Claim 1 be withdrawn since the Mogul '761 reference (i) does not describe the elements of Applicant's Claim 1, (ii) operates under different principles of operation and toward a different objective, (iii) can not be modified to result in Applicant's invention as described by Claim 1, and (iv) does not provide any teaching, suggestion, motivation or incentive from which one of ordinary skill in the art would find the Applicant's invention recited in Claim 1 to be obvious.

Furthermore, with regard to Claim 1 only, the Applicant respectfully repeats the reminder in the previous Office Action responses that Claim 1 is written in means plus function format. That reminder has once again been ignored, because again no determination of scope for these means elements has been provided. Accordingly,

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

under *In re Donaldson*, Claim 1 must be construed to means within the structure described in the specification and its equivalents. When properly interpreted under *In re Donaldson*, Claim 1 clearly distinguishes over the cited reference of Mogul '761 and that reference does not suggest, teach or provide motivation or incentive for the invention recited in Claim 1.

The Examiner has made no determination of the scope of the means plus function language based on the Applicant's specification or made a proper comparison under *In re Donaldson*. The Applicant respectfully traverses the grounds for rejection, and cites *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994)(en banc) as the basis for the traversal. Claim 1 is written in means plus function form pursuant to 35 U.S.C. §112, sixth paragraph, and therefore, must be interpreted during examination under *In re Donaldson*.

In rejecting Claim 1, the Examiner made no specific fact findings as to the scope of equivalents for the means plus function elements in the claim. Instead, the Examiner appears to have followed the provisions of MPEP § 2183 ("Making a Prima Facie Case of Equivalence"), which states:

If the examiner finds that a prior art element performs the function specified in the claim, and is not excluded by any explicit definition provided in the specification for an equivalent, the examiner should infer from that finding that the prior art element is an equivalent, and should then conclude that the claimed limitation is anticipated by the prior art element. The burden then shifts to applicant to show that the element shown in the prior art is not an equivalent of the structure ... disclosed in the application. *In re Mulder*, 716 F.2d 1542, 219 U.S.P.Q. 189 (Fed. Cir. 1983). No further analysis of equivalents is required of the examiner until applicant disagrees with the examiner's conclusion, and provides reasons why the prior art element should not be considered an equivalent.

While the Examiner appears to have followed the provisions of MPEP §2183, such provisions are contrary to Federal Circuit law. The Federal Circuit has held that an examiner "construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure ...

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

described therein, and equivalents thereof," *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994)(en banc), and in so ruling expressly denied that "the PTO is exempt from this mandate." *Id.* The Federal Circuit added that it was specifically overruling any precedent that suggested or held to the contrary. *Id.* at 1193-94. In response to the PTO's argument that the court's ruling conflicted with the principle that a claim should be given its broadest reasonable interpretation during prosecution, the Federal Circuit held that the *Donaldson* decision was setting "a limit on how broadly the PTO may construe means-plus-function language under the rubric of 'reasonable interpretation.'" *Id.* at 1194. In other words, an examiner's claim interpretation is not "reasonable" if it is not based on the specification's description of the implementation of the means element of the claim. The court then said, "Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such [means - plus - function] language when rendering a patentability determination." *Id.* at 1195.

Here, as in *Donaldson*, the Examiner is required by statute to look to the Applicant's specification and construe the "means" language as referring to corresponding means disclosed in the specification and equivalents thereof." See *id.* at 1195. However, the Examiner did not construe the means language of these claims. Nor did the Examiner find, on the basis of specific facts of record here, that the means disclosed in the Applicant's specification were equivalent to that of the cited references. Instead, as prescribed by MPEP §§ 2183-84, the Examiner simply presumed equivalence. The presumption methodology used here, which the MPEP prescribes, clearly conflicts with the requirements of the Federal Circuit's *Donaldson* decision. The approach taken by the Examiner in this case also conflicts with *In re Bond*, 931 F.2d 831 (Fed. Cir. 1990).

The very point of these cases is that, in this context, limitations from the specification control the interpretation of the claim. Under §112, paragraph 6, a means-plus-function element of a claim must be construed to mean that which is disclosed in the specification and its equivalents. In *Donaldson*, the Federal Circuit said

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

that "our holding does not conflict with the general claim construction principle that limitations found only in the specification of a patent or patent application should not be imported or read into a claim." In other words, the court was saying that a §112, paragraph 6 "means" element does not need to be "imported or read into" a means-plus-function claim because the specification's limitations and their equivalents are already in the claim by virtue of §112, paragraph 6's command. Thus, the Federal Circuit said (16 F.3d at 1195): "What we are dealing with in this case is the construction of a limitation already in the claim in the form of a means-plus-function clause and a statutory mandate on how that clause must be construed."

Consequently, based on the foregoing, the Applicant respectfully submits that the rejection of Claim 1 lacks proper foundation and that the rejection should be withdrawn. Claim 1 should have been interpreted in view of the specification as required by *In re Donaldson*.

Claim 2. The rejection of independent Claim 2 closely follows that of Claim 1, and a similar lack of support exists for a *prima facie* case of obviousness. The arguments put forth traversing the rejection of Claim 1 can be generally applied to Claim 2. In particular, the content records of Applicant's invention cannot be equated to the use of a server which serves conventional HTML pages from a database for use by a browser as taught by Mogul '761. The reference does not support the rejection of Applicant's Claim 2.

As mentioned with regard to Claim 1, the Mogul reference does not describe an apparatus for accessing and displaying multimedia content, but describes a server which selects alternative HTML content based on available bandwidth. The suggested modification of Mogul '761 is absurd: it does not result in Applicant's invention as embodied by Claim 2, it does not describe the necessary structural changes, and further provides no support for making any changes. The Examiner's suggested modification *in toto* is as follows: "*It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the rich data files encoding*

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

multimedia information in various formats for media files to presented to clients as taught by Mogul because it would have made the apparatus for accessing and displaying for reducing the size, the resolution of the graphic image and the spatial frequencies of graphic image and the page can be compressed too (col. 4, lines 41-50)." The "utilize the rich data files encoding multimedia information in various formats" does not describe Applicant's invention. It would follow from this rejection that anything containing databases that makes use of browsers would be "obvious"; wherein all R&D relating to the Internet is just a waste of time.

The proposed modification does not yield the Applicant's invention, a lack of specificity exists with regard to modifying Mogul '761, and there is no motivation to modify Mogul '761 to change its principle of operation. Once again the description of modifications to Mogul '761 do not make any sense; they generally describe the use of databases and multimedia content, but provide no information as to how one would create applicants claimed invention from the reference. No suggestion or motivation for making changes exists in the first place, since the teaching of Mogul '761 is based on different structures and has different purposes and operating principles than Applicant's claimed invention.

It is the burden of the PTO to establish a prima facie case of obviousness when rejecting claims under 35 U.S.C. §103. However, none of the elements of Claim 2 can be found in the cited reference, there is nothing in the cited reference from which one of ordinary skill in the art would find any suggestion, motivation or incentive so as to render Claim 2 obvious, and the invention of Claim 2 as a whole would not have been obvious to one of ordinary skill according to the requirements of 35 U.S.C. §103 for any other reason. Therefore, the rejection should be withdrawn.

Claim 3. The rejection of independent Claim 3 is similar to that of Claims 1 and 2, and similarly lacks necessary support. The arguments put forth traversing the rejection of Claims 1 and 2 can be applied to Claim 3. In particular, Mogul '761 fails to teach the use of content records as that term is known in Applicant's invention, while

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

also failing to teach programming that provides for seamlessly accessing of those content records. As mentioned previously, Mogul '761 is directed at a web page server which selects HTML pages for sending based on available bandwidth. The reference does not contain what the Examiner has contended, and does not render Claim 3 unpatentable. The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 3.

Applicant respectfully requests that the rejection of Claim 3 be withdrawn because no support exists for making a *prima facie* case of obviousness against Claim 3.

Claim 4. The rejection of independent Claim 4 is similar to that of Claims 1 through 3, and similarly lacks necessary support. The arguments put forth traversing the rejection of claims 1, 2, and 3 can be generally applied to Claim 4. In particular, Mogul '761 fails to teach the use of content records as that term is known in Applicant's invention, while also failing to teach instructions executable on a computer for seamlessly accessing of those content records. The proposed modification (for which no suggestion or motivation exists to propose the combination) does not describe a modification, but only duplicates the generalized remarks found for Claim 1 about utilizing rich data files.

Therefore, Mogul '761, which is the primary reference cited by the Examiner, does not teach those aspects of the Applicant's claims which the Examiner asserted the reference teaches. The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 4. Applicant respectfully requests that the rejection of Claim 4 be withdrawn because no support exists for making a *prima facie* case of obviousness against Claim 4.

Claim 5. The rejection of independent Claim 5 is similar to that of Claims 1 through 4, and similarly lacks the necessary support required for making a *prima facie* case of obviousness. The arguments put forth traversing the rejection of claims 1 through 4 can be generally applied to Claim 5. In particular, Mogul '761 fails to teach

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

the use of content records as that term is known in Applicant's invention, while also failing to teach a software delivery engine associated with the database of content records locating and displaying media elements as one seamless multimedia application. Mogul '761 is directed at different goals, utilizes different principles, and contains structures that are not amenable to modification to Applicant's invention. And furthermore, there exists absolutely no suggestion, or motivation found in the reference or generally known in the art to make the changes to the reference, without relying on teachings within the instant applications.

The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 5. Applicant respectfully requests that the rejection of Claim 5 be withdrawn because no support exists for making a *prima facie* case of obviousness against Claim 5.

Claim 6. The rejection of independent Claim 6 is similar to that of Claims 1 through 5, and similarly fails to support the claim rejection. The arguments put forth traversing the rejection of claims 1 through 5 can be generally applied to Claim 6. In particular, Mogul '761 fails to teach the storage of multimedia content records, as that term is understood within Applicant's invention, within a database, and also does not describe a software engine which can seamlessly access the content records.

The modification proposed to Mogul '761 in the rejection does not remedy the shortcomings of the reference and is directed at conventional aspects of web page serving, specifically the retention of pages in a database, and the use of a browser for displaying the pages which can include various media content. The proposed "modification", does not describe a modification but the desirability of having "*rich data files encoding multimedia information in various formats*". In any case the "modification" does not resolve the shortcomings, and modifications which could resolve the shortcomings would still remain unworkable as they would then render the prior art unsatisfactory for its intended purpose (MPEP 2143.01) and would of necessity alter the principles of operation of the references (MPEP 2143.01), and of course the only

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

place where such suggestions are made toward Applicant's invention are found within the teachings of the Applicant. As a consequence, the obviousness rejection lacks support, as Mogul '761 provides nothing that is directed at the unconventional aspects of the present invention, and Mogul '761 uses different methodologies to accomplish different purposes with different goals than that of the Applicant's invention as claimed in Claim 6.

As a result, there is nothing in the cited references from which one having ordinary skill in the art would find Applicant's Claim 6 or the claims that depend therefrom, to be obvious. A failure on any of these necessary aspects for an obviousness rejection are sufficient to traverse the rejection, it should be observed that the rejection fails in each of these regards.

The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 6. Applicant respectfully requests that the rejection of Claim 6 be withdrawn because no support exists for making a *prima facie* case of obviousness against Claim 6.

Claims 7-18. These claims depend from a variety of independent claims, although referred to in the section of the Office Action relating to Claim 6. These claims are not obvious in view of the Mogul '761 reference as has been shown, wherein these dependent claims should *a fortiori* be considered allowable. However, it should also be recognized that the separate teachings of these claims has not been properly considered.

The Examiner has contended that "...Mogul discloses wherein multimedia content records include at least one custom tag, wherein said software engines is configured to read said custom tag; wherein said custom tag instructs said engine to fetch a corresponding multimedia content record from said database; wherein said software engine reads said multimedia content record...". Support for the above statements is listed as being found in column 5, lines 12-18 of Mogul '761.

Appl. No.: 09/262,172
Amdt. Dated: 04/28/2004
Off. Act. Dated: 12/24/2003

Examining column 5, lines 12-18 of Mogul '761, however, one can make no such conclusions. This section of Mogul '761 reads as follows:

Typically, the Web pages 112 are designed using the Hyper-Text Mark-up Language (HTML). With HTML, any number of multimedia data files can be specified as inserts for a particular Web page. The "location" of a Web page or insert thereof is specified by an address called a Universal Resource Locator (URL) 113.

The clients 120 can be any type of computer, personal computers, workstations, and portable devices, such as a laptop or personal digital assistant (PDA), and the like.

The conventional URL construct provides the basis for the above assertions, which is absurd. First, a URL is not a custom tag, as the use of URLs has been defined since the inception of HTML. URLs also do not provide instructions for fetching multimedia content records from a database by way of a software engine. The Applicant has described what constitutes multimedia content records which are stored in a database according to the invention, for example refer to page 3, line 7 through page 4, line 11. Within that section the Applicant has even described how this differs from a conventional URL, specifically:

"Where a conventional HTML document hyperlink would either address another HTML document, or a file, the custom tags can do this as well as refer to other records in the database, locate and display images located on the application's CD-ROM in another illustration window, load and run media components from the database and/or program CD-ROM and load Web server-based content. This process is seamless and transparent to the user. The net result is that the user views the content of this multimedia application as one integral application, regardless of the data's origin."

So basically both the teachings within Applicant's invention, and that of the cited reference have been ignored, and/or misrepresented, in order reject the claims at issue.

Furthermore, other aspects of the dependent claims have been ignored. Although dependent claims should be considered *a fortiori* allowable because they are

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

based on an independent claim whose patentability has been shown, they contain elements which were not properly considered as pointed out in the following.

Claims 7, 9, 11, 13, 15 and 17 (drawn to different independent claims) each describe the use of "custom tags" which are read by the software engine, a custom tag by its very nature is customized, and therefore not a standard tag. In support of the rejection, the Examiner has incorrectly referred to URLs as found within HTML pages, however these URLs are conventional HTML pointers which are readable within a browser. By contrast, the custom tags described are read by the software engine prior to passing the content page to an interface program for display. These aspects are not described nor suggested by Mogul '761, which relies on conventional HTML mechanisms.

Claims 8, 10, 12, 14, 16 and 18 (drawn to different independent claims) describe the generation of a temporary local copy of a content page. This again is not found in Mogul '761, which conventionally interprets the URLs embedded within the HTML pages for accessing content. These URLs do not constitute content records contained in a database. The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in the foregoing claims. Applicant respectfully requests that the rejection be withdrawn because no support exists for making a *prima facie* case of obviousness.

Claim 19. Independent Claim 19 is drawn to the recitations of independent Claim 2 in combination with the use of custom tags within the content records and copying of content pages within the content record, as generally recited in dependent claims 9-10. Applicant respectfully submits that since no adequate support has been shown for the rejection of any of these claims subsumed within Claim 19, that Claim 19 is not obvious in view of the Mogul '761 reference.

Therefore, the aspects of the invention recited in this claim is not described within Mogul '761, and no motivation or suggestion can be found for modifying the

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

reference, wherein the Applicant respectfully requests that the rejection of Claim 19 be immediately withdrawn.

Claim 25. Claims 25 is an independent claim drawn to a multimedia delivery engine for the seamless delivery of varied multimedia content. This independent claim recites detailed aspects of the invention, aspects of which have been discussed for independent Claims 1-4, none of which are found in the relied upon reference of Mogul '761.

Examiner has based this rejection on considering that Mogul '761 discloses "a reader routine to access HTML text content, and a writer routine configured to write HTML content into a temporary cache file.

However, the description found in Mogul '761 column 5, lines 14-67 is that of conventional URL usage within a browser that displays content pointed to by a URL. The teachings of Mogul '761 does not include the use of HTML custom tags which point to a database of content records, as described in Claim 25. Furthermore, there is no discussion of copying record content to temporary cache files and displaying the HTML content of the temporary cache files. Examiner has described the conventional page fetch mechanisms and history mechanisms (see col. 5, lines 26 - 32) in support of the rejection. It should be appreciated that these conventional mechanisms read HTML page content, some of which is read via a URL, and they do not locate records in a database, but only display page contents within the browser based on page content or content of a page pointed to by the history file.

Examiner erroneously states that Mogul '761 teaches fetching from a database (which is equated to the database of content records), however there is no such teaching within the Mogul reference. Mogul describes retrieving page content, which is conventional, but content records according to the invention are not described and the accessing of content records from a database is also not described.

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

That they both deal with media components is certainly not sufficient for equating these aspects of Applicant's invention with that of Mogul '761. It is well known that in supporting an obviousness rejection EVERY claim element must be taught or inherent in the combination. The use of content records, custom tags, and copying of content pages is not even described in Mogul '761 nor is it in any manner inherent to the reference. Nor does the cited reference provide any suggestion, motivation or incentive for the invention recited in Claim 25. Applicant respectfully requests that the rejection be withdrawn because no support exists for making a *prima facie* case of obviousness

Claims 26-28. These claims depend upon Claim 25 and describe aspects of the multimedia content and multimedia delivery engine. Since these claims are dependent on a base claim shown to be allowable, they should be considered *a fortiori* allowable. Furthermore, these claims also disclose elements not found within the Mogul '761 reference. The rejection of these claims should, therefore, be withdrawn.

Examiner has again grossly misrepresented what is disclosed by Mogul '761. Applicant's claim language is once again copied and pinned onto the Mogul '761 reference despite a lack of ANY relevant teaching whatsoever in that reference. In this case the cited section of Mogul '761 (col. 4, lines 10-24) only addresses serving web pages over a network connection, there is no discussion at all of retrieving content from a combination of local and remote sources.

Claim 29. This is an independent claim drawn to a method of delivering varied multimedia content in response to the contents of a database. The support for the rejection misrepresents what is taught by Mogul '761. Claim 29 contains elements of prior claims and dependent claims, which have shown to be patentable. The intended support for the rejection once again attempts to equate conventional HTML aspects recited in the Mogul '761 reference, specifically the use of a browser for viewing HTML with the teachings of the Applicant. However, Applicant teaches, such as at page 4, lines 4-11: "*Where a conventional HTML document hyperlink would either address another HTML document, or a file, the custom tags can do this as well as refer to other*

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

records in the database, locate and display images located on the application's CD-ROM in another illustration window, load and run media components from the database and/or program CD-ROM and load Web server-based content. This process is seamless and transparent to the user. The net result is that the user views the content of this multimedia application as one integral application, regardless of the data's origin."

There is no discussion in Mogul regarding referring to other records in a database and determining whether to display data from the database which is obtained locally or remotely.

Therefore, numerous aspects of Claim 29 are not described by the prior art reference. To support a rejection each of these claim elements must be found. Because not all of the elements of Claim 29 are found, nor is there any suggestion, motivation or incentive to be found within the Mogul reference for modifying the reference to provide these aspects the rejection, the rejection has been misapplied.

Therefore, Claim 29 is not obvious in view of Mogul '761, wherein the rejection of Claim 29 along with the claims which depend therefrom should be withdrawn.

Claims 30-32. These claims depend from independent Claim 29, which has been shown to be allowable, wherein Claims 30-32 should be a *fortiori* considered allowable.

It should further be recognized that aspects of Applicant's invention are described in these claims which find no support in the relied-upon reference, for example the statement "*wherein said varied multimedia content comprises both high-bandwidth media for storage across local devices and current and time-sensitive content for storage remotely on an Internet server*". As mentioned previously, these aspects are not found in the reference, the rejection (supported by Mogul '761 column 4, lines 10-24, and column 5, lines 40-67 and elements 130 and 131 in FIG. 1) refer only to conventional serving of web pages over an internet connection. For example, elements 130 and 131 in FIG. 1 depict the Internet and the web respectively. Applicant

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

is not attempting to stake a claim on the Internet, or conventional web page serving. These distinctions are brought out in Applicant's claims which clearly differentiate Applicant's invention from that of Mogul '761. Claims 30-32 further detail information about the use of content records, as recited in the base claims, and also describe retrieving content from various sources based on information from the content records, and not relying on the execution of individual components to display the various media content.

Claims 33-36. These dependent claims depend from independent Claim 3, which has been shown to be allowable, whereby Claims 33-36 should be *a fortiori* considered allowable.

These claims further expand on the description of the content records. In Claim 33 the multimedia engine is described for locating and displaying media elements referred to within a given content page record.

Claim 34 describes the ability of the multimedia engine to display the multimedia elements within one or more selected windows (normal or expanded as recited in Claim 35) within the multimedia presentation. Claim 36 describes displaying images too large for the existing windows. These claimed aspects of Applicant's invention contradict the teaching of Mogul '761 which alters HTML pages sent based on the bandwidth of the device.

Therefore, the rejection of Claims 33-36 should be withdrawn as these claims are both *a fortiori* allowable and provide elements which of themselves are patentably distinct over the Mogul '761 reference. The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in the foregoing claims. Applicant respectfully requests that the rejection be withdrawn because no support exists for making a *prima facie* case of obviousness.

Claim 37. This is an independent claim drawn to an apparatus for providing multimedia tutorials. Similar to the traversal of prior independent claims, the numerous elements recited in this claim are nowhere described in the Mogul '761 reference,

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

wherein a rejection has been asserted based upon a misrepresentation of what is described within the Mogul '761 reference. The specific elements of Applicant's claims are generalized and equated to aspects found in the reference.

The multimedia content records and software engine means described in prior independent claims are similarly recited in Claim 37, along with additional aspects of the invention. For example, the software engine is said to *"not rely on the execution of individual components or programs which operate independently to display the various media content"*. This limitation is also contrary to the teachings of Mogul '761 which describes server programming (not browser aspects), but which does not disclose anything but conventional handling of the HTML files by a browser, which inherently relies upon individual components for processing the media content elements.

It should be recognized that Mogul '761 does not teach the use of multimedia content records, as that term is used in the present invention. The cited reference does not describe a software engine for seamlessly accessing content. The cited reference describes a web page server which varies the depth of HTML content being served in response to the measured bandwidth of the connection to the client. Applicant's invention is not directed at similar goals, and it describes accessing multimedia content records from within a database for a seamless display.

Clearly, support is lacking for the obviousness rejection of Claim 37, as the elements of Mogul '761 in no way comport to the elements of Applicant's Claim 37.

Therefore, the rejection of Claim 37, as well as the claims which depend therefrom, should be immediately withdrawn. The cited reference does not teach, suggest or provide motivation or incentive for the invention recited in Claim 37. Applicant respectfully requests that the rejection be withdrawn because no support exists for making a *prima facie* case of obviousness.

Claims 38-44. These claims depend from independent Claim 37 which has been shown to be allowable over the cited reference, whereby Claims 38-44 should be *a fortiori* considered allowable.

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

Additionally, Claims 38-44 are dependent claims which were not discussed by the Examiner in the Office Action. A number of aspects of the invention as recited in these dependent claims are not found within the Mogul '761 reference, for example the use of toolbar controls for selecting tutorial positioning with the content records, a map window for displaying tutorial content, and a demonstration window that may be opened for demonstrating a process being described in the tutorial.

Therefore the rejection of these claims should be immediately withdrawn.

2. Rejection of Claims 20-24 under 35 U.S.C. §103(a).

Claims 20-24 are dependent claims which were rejected under 35 U.S.C. §103 as being unpatentable over (U.S. Patent No. 6,243,761) to Mogul et al. in view of Milne et al. (U.S. Patent No. 6,421,692).

These claims recite with more particularity the aspect of seamless accessing of content records, and depend from independent Claims 1, 2, 3, 4 and 19 respectively. As a consequence of the respective base claims having been shown allowable, claims 20-24 should be considered *a fortiori* allowable and the rejection withdrawn. However, these claims were improperly equated to aspects of a proposed combination between Mogul '761 and Milne '692.

Claims 20-24. It should first be readily recognized that a server program which serves web pages is not combinable with a system for routing multimedia data between components which could be referred to as a combination patch panel and mixing board.

Secondly, these dependent claims specifically recite that "said seamless accessing of content records in said database does not rely on the execution of individual components or programs which operate independently to display the various media content while not providing for any integration of the applications". Conventional programming as found in Mogul '761 relies on using different modules for displaying different forms of media, such as controlled by a browser. The resultant multimedia presentation is therefore not "seamless", because these modules operate independently (non-cooperatively). The system of Milne '692 is a collection of

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

components between which multimedia is connected, wherein each module has its own inputs and outputs. Applicant's invention, by contrast provides an architecture in which the media elements referred to in the multimedia content records processed by the software engine are displayed seamlessly because the software engine is configured for displaying all forms of multimedia content from a database of content records and it does not rely on independent programmed display programming (i.e. plug-ins).

As a number of aspects of the invention, recited in Claims 20-24 are not found in either Mogul '761 or Milne '692, the combination also is unable to support the rejection.

There are numerous other problems with the rejection including, no description of how to modify references, references cannot be combined without changing the principles of operation and making the references unsuited for the original purpose, no suggestion motivation or incentive for making proposed combination and so forth.

Therefore, the impropriety of combining Milne '692 with Mogul '761 to obviate Applicant's invention recited in Claims 20-24 has been demonstrated, in a number of ways. Although these dependent claims should have already been considered *a fortiori* allowable in view of the allowability of the base claims to which they depend, they have been shown to contain additional matter that is not taught by the cited references.

Appl. No.: 09/262,172
Amdt. Dated: 04/26/2004
Off. Act. Dated: 12/24/2003

3. Conclusion.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to immediately withdraw the outstanding rejection of the claims and to pass this application to issue.

Date: 4/26/04

Respectfully submitted,



John P. O'Banion, Reg. No. 33,201
O'BANION & RITCHEY LLP
400 Capitol Mall, Suite 1550
Sacramento, CA 95814
(916) 498-1010